IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 841 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 13/12/2004 in WP NO:13084 OF 2001 on the file of the High Court.)

Between:

1 The A.P.S.R.T.C. Bus Depot, Rep. by its Depot Manager,
Chirala, Prakasham District.
2 The Divisional Manager, A.P.S.R.T.C.,
Ongole, Prakasham District.

..... APPELLANTS

AND

T.Prabhudasu, S/o. Late Krishna Murthy,
R/o. 6-8-43, S.N.P.Agraharam,
Opp: Municipal Office, Bapatla, Guntur District.

.....RESPONDENT

Counsel for the Appellants : MR.R.MANMADHA REDDY

Counsel for the Respondent: MR.V.NARASIMHA GOUD

The Court at the stage of admission, made the following :

JUDGMENT: (per the Hon'ble Sri Justice L.Narasimha Reddy)

This appeal is preferred against the order, dated 13.12.2004 passed by the learned single Judge in Writ Petition No.13084 of 2001. The Writ Petition was filed by the respondent herein.

The respondent is working as a driver in the A.P.S.R.T.C. since 1985. He was removed from service through an order, dated 13.09.1993, after conducting departmental enquiry. The allegation against him was that he drove the bus in a rash and negligent manner, resulting in the death of an employee. The respondent raised an Industrial Dispute. The Labour Court passed an award directing the reinstatement but denying the back wages.

Feeling aggrieved by the denial of back wages, the respondent filed the Writ Petition. The learned single Judge took into account the observation of the Labour Court that there was no rashness on the part of the respondent and ultimately directed that the respondent be extended the benefit of 50% of the back wages.

Learned Standing Counsel for the appellants submits that it was clear from the record that on account of the rash and negligent driving of the respondent, an employee died and it cannot be said that there was no rashness on the part of the respondent. He submits that the learned single Judge did not furnish cogent reasons in support of the direction for payment of 50% of the back wages.

Sri V.Narasimha Goud, learned counsel for the respondent, on the other hand, submits that the Labour Court while directing reinstatement, made an observation that the respondent was guilty of rashness, but still, denied the relief of back wages.

He submits that the respondent was, in fact, entitled for the entire back wages.

In the Industrial Dispute, raised by the respondent against the order of removal from service, the Labour Court recorded a finding to the effect that though the respondent was negligent, it cannot be said that he was rash in driving the bus. The Labour Court took into account, the material placed before it in reaching this conclusion. A perusal of the award of the Labour Court discloses that the finding was rather equivocal. The relevant portion reads as under:

> "Therefore, there is negligence on the part of the applicant while driving the bus and in causing the accident, though, there may not be rashness on the part of the applicant in causing the accident."

From the above, it is clear that the respondent cannot be said to be rash, in driving the bus, though he was required to be more conscious. It is this factor that weighed with the learned single Judge in granting the relief of payment of 50% back wages. We do not find any reason to interfere with the same.

The Writ Appeal is accordingly dismissed. We, however, make it clear that neither the order in the Writ Petition nor this order can be treated as a precedent for the proposition that the absence of precaution, on the part of the drivers, cannot be treated as a factor to exonerate them from their liability.

(T.MEENA KUMARI, J)

(L.NARASIMHA REDDY, J)

Dt: 25.04.2005

bsv/lvl

To

1 The Depot Manager, A.P.S.R.T.C. Bus Depot, ,
Chirala, Prakasham District.
2 The Divisional Manager, A.P.S.R.T.C.,
Ongole, Prakasham District.

3 Two CD copies